

### **REMARKS**

Applicant appreciates the consideration of the present application afforded by the Examiner. Claims 1-13 and 15-28 were pending prior to the Office Action and remain pending. Claims 1, 3, 5-7, 16, and 20-25 have been amended through this Reply. Claims 1, 3, 5-7, 16, and 20-25 are independent.

The Office Action rejects claims 1-13, 20, and 26-28 under 35 U.S.C. § 103(a) as allegedly unpatentable over Maissel et al. (US 6,637,029) in view of Bedard (US 5,801,747); rejects claims 15, 16, and 21-25 under § 103(a) as allegedly unpatentable over Maissel in view of Bedard and further in view of Blahut et al. (US 5,446,490); and rejects claims 17-19 under § 103(a) as allegedly unpatentable over Maissel, Bedard, and Blahut, and further in view of Hakura et al. (US 6,157,946).

Applicant respectfully traverses these rejections. Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

#### ***Claim Rejections - 35 U.S.C. § 103(a)***

Independent claim 1 stands rejected under § 103(a) as allegedly unpatentable over Maissel in view of Bedard.

Through this Reply, claim 1 has been amended to recite, inter alia, a data output apparatus comprising “a preference score vote receiving unit receiving a user-indicated vote of preference score of output data representing a degree of preference.” Furthermore, claim 1 recites “a preference score counting unit counting the vote of preference score received by said preference score vote receiving unit; an output unit outputting data based on receipt of a data switch request from a user; and a switch destination data determining unit determining a switch destination corresponding to data to be output by said output unit, based on a result of counting by said preference score counting unit.”

As the Examiner has previously recognized, Maissel fails to teach or suggest determining a switch destination of data being output by the output unit wherein the output data is output based on receipt of a data change request from a user. (Applicant hereby amends “data change request” to read “data switch request” for consistency with the disclosure.) The Office Action

relies on Bedard to allegedly cure the recognized deficiencies of Maissel regarding outputting data based on receipt of a data switch request from a user (see Office Action, pages 3-4).

Bedard generally discloses using a viewer profile operating in conjunction with a remotely controllable electronic program guide (EPG) in order to automatically surf through a viewer's preferred channels, or through channels which are currently showing categories of programming determined to contain content the viewer might find interesting. Bedard teaches that the preferred channels or categories of programming are determined according to information stored in the viewer profile (see col. 3, lines 26-56 and col. 7, lines 39-64, as cited by the Examiner; see also col. 8, lines 22-26).

From Figure 2, Bedard teaches storing information regarding a viewer's preferences in the form of a viewer profile array 200. In the viewer profile array, channel information 202 is respectively stored in association with a total viewing unit counter 204 representing the number of units of time a user has spent viewing particular categories of programming 208 (see col. 4, lines 27-65).

However, despite the aforementioned teachings of Bedard, the reference is entirely silent regarding receiving a *"user-indicated vote of preference score of output data representing a degree of preference,"* as recited in claim 1. As previously discussed, Bedard expressly teaches that the preferred channels for a user's viewer profile are determined based on a count of the number of units of time a user has spent viewing particular programming content. This is entirely different than a "user-indicated vote of preference" as claimed. Moreover, neither Maissel nor Bedard teach or suggest, alone or in combination, counting the user-indicated vote of preference score of output data received by said preference score vote receiving unit and outputting data based on receipt of a data switch request from a user, where the switch destination corresponds to data to be output by said output unit, based on a result of counting by said preference score counting unit.

For a rejection under 35 U.S.C. § 103 to be proper, a prima facie case of obviousness must be established (see, e.g., MPEP § 2142). One requirement to establish prima facie case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations (see, e.g., MPEP § 706.02(j); MPEP § 2142). Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

Based on the foregoing, the combination of Maissel and Bedard fails to teach or suggest each and every limitation of claim 1. Blahut and Hakura have not been, and indeed cannot be, relied upon to correct at least these deficiencies of Maissel and Bedard. Independent claims 3, 5-7, 16, and 20-25 recite at least features comparable to those presented above with respect to claim 1 and are likewise distinguishable from the prior art at least based on the rationale presented above with respect to claim 1.

Therefore, Applicant submits that claims 1, 3, 5-7, 16, and 20-25, and likewise the claims dependent thereon, are patentable over the prior art and respectfully request that the rejection of said claims under § 103(a) be withdrawn.

**CONCLUSION**

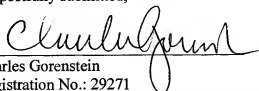
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John R. Sanders (Reg. No. 60,166) at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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